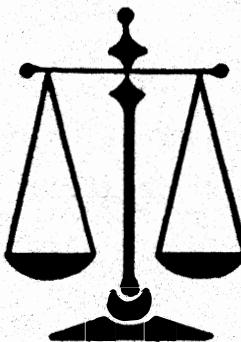


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**A SUMMARY OF SELECTED BILLS
TRULY AGREED TO AND FINALLY PASSED
by the
82nd General Assembly
Second Regular Session**



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Prepared By
Office of State Courts Administrator
July 1984

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* Bills of special interest to the clerks.

INTRODUCTION

In their role of interpreting the statutes of Missouri, judges have a potential interest in almost any bill enacted. However, for this synopsis certain bills have been selected which appear to have a direct impact on the workload or procedures of the courts or which appear likely to come to the attention of the courts within a short time. The individual summaries cover the major points of the bills, but they do not address every issue in each bill and should not be read as a substitute for reading the bill in the context of the entire chapter in the statutes.

The effective date for this legislation is August 13, 1984, unless otherwise indicated.

These summaries were created with the assistance of materials provided by the Divisions of Research of the Senate and House of Representatives, by the Senate Administrator and the Chief Clerk of the House of Representatives.

For a copy of any bill, please direct your request to:

Senate Bill Room
State Capitol
Jefferson City, Missouri 65101 (Senate Bills)

House Post Office
State Capitol
Jefferson City, Missouri 65101 (House Bills)

Staff of the Office of State Courts Administrator are willing to assist you in obtaining further information about any of the legislation.

SENATE BILLS

SENATE BILLS

SENATE BILL NO. 424 - PROCEEDS OF CLAIMS OF MINORS

Repeals Section 507.188 RSMo (Supp. 1983) and a new section is enacted.

After paying the attorney fee and the expenses the court may order the next friend or guardian ad litem to pay or transfer the proceeds of the claims of a minor to the minor or the parents of the minor, whenever the proceeds do not exceed \$10,000. The court shall order the next friend or guardian ad litem to pay or transfer the proceeds to a duly appointed and qualified conservator of the minor whenever the proceeds are in excess of \$10,000. Previously the limit was \$5,000.

SENATE BILL NO. 425 - JURY SELECTION

Repeals Sections 494.031, 494.240, 494.250, 494.260, and 494.280 RSMo 1978 and enacts five new sections.

Provisions relating to selection of the petit jurors and alternate petit jurors in 3rd and 4th class counties are amended. Reference to "alternate jurors" is deleted. The act provides that "[t]he total number of jurors to be summoned shall not be less than forty-eight but may be a larger number if the circuit judge or judges deem a larger number to be necessary to insure that an adequate number will be available to serve".

Also amended are the provisions relating to the filling of vacancies in the jury panel.

The act revises general provisions relating to persons entitled to be excused from jury service. Persons over the age of 65, women, professors and teachers and officers and employees of any of the branches of federal, state, county or city government shall no longer be excused from service as a petit or grand juror upon their timely application to the court. Parties shall be excused from service if the court believes the service would impose an "extreme" hardship.

SCS/SENATE BILL NO. 448 - HOMICIDE CODE

Repeals Sections 563.070, 565.021, 565.025, 565.030, 565.032 and 577.008 RSMo (Supp. 1983) and the effective date of these sections and enacts five new sections relating to the homicide code.

The act postpones from July 1, 1984, to October 1, 1984, the effective date of the provisions by Senate Bill 276 (Homicide Code) during the 1983 legislative session.

Section 563.070 is amended by deleting subsection (2), which provides that "The provisions of this section may not be used as a defense to the crime of second degree murder".

The bill also amends Chapter 565 relating to murder in the second degree, lesser degree offenses to be considered by the trier in all homicide cases and the instructions the judge or jury must consider in all cases of murder in the first degree for which the death penalty is authorized.

The act further provides that the revisions to the homicide law (Senate Bill 276) as enacted by the first regular session of the 82nd General Assembly (1983 session) shall go into effect on October 1, 1984. This provision became effective July 1, 1984.

The sections amended by this act become effective October 1, 1984.

SENATE BILL NO. 464 - EMPLOYMENT OF HANDICAPPED AND INTERPRETERS FOR THE DEAF

Repeals Section 286.200 and Section 546.035 RSMo 1978, and Sections 36.170 and 36.180 RSMo (Supp. 1983) and enacts six new sections dealing with the employment of the handicapped and interpreters for the deaf in judicial and administrative proceedings.

Revised are provisions regarding employment of the handicapped within the state merit system, and the length of the term the chairman of the "Governor's Committee on the Employment of the Handicapped" shall serve.

Interpreters for deaf persons are also addressed in the act. A definition section is created and provisions established whereby any deaf person involuntarily detained or arrested shall have an interpreter immediately made available prior to any attempts being made to interrogate or otherwise obtain information. Information obtained prior to providing interpreter's services shall be deemed inadmissible evidence in any judicial or administrative proceeding. "The judge of the court before whom the deaf person would first appear shall be the appointing authority to name the qualified interpreter." (Section 546.034.1)

The services of a qualified interpreter must be provided to any deaf person who makes such a request to the judge, commissioner, administrative hearing officer or other person in charge of a judicial or administrative hearing whenever the deaf person may appear as a party or a witness in a proceeding, or whenever the testimony may be introduced into the official record of the proceeding.

In proceedings where a deaf person may be subjected to confinement or criminal sanction, or any preliminary proceeding of the same, including coroner's inquests, grand jury proceedings, and mental health commitments, an interpreter shall be appointed. The act contains provisions relating to the appointment of the interpreters, communications between a deaf person and his interpreter, the rights

and privileges of the deaf person, the waiver of the right to an interpreter, and the compensation of the interpreter.

The provisions relating to interpreters shall not apply to municipal courts after August 13, 1986.

SENATE BILL NO. 491 - RETIREMENT OF CERTAIN JUDGES

Section 476.515 RSMo 1978 is repealed and one new section enacted in its place.

Expands the definition of judges in section 476.515 RSMo 1978 of the judicial retirement statutes to include probate commissioners appointed after February 29, 1972 in a first class county having a charter form of government.

SENATE BILL NO. 574 - VITAL STATISTICS LAW

Repeals 41 sections relating to vital statistics and records and enacts 34 new sections relating to the same subject.

The bill revises the entire chapter dealing with vital statistics. Amendments are made to provisions relating to chapter definitions, duties of the state registrar, birth certificates, reporting of adoptions, death certificates, registration of marriages, marriage license recording, procedures to amend a certificate or report, and disclosure of records.

Also addressed in the act are provisions regarding the form and content of the petition to appeal the decision of the state registrar to reject a certificate of birth. The appeal would be filed in a "court of competent jurisdiction". Notice requirements and reporting requirements of the clerk are detailed.

The bill provides that a record of the dissolution ". . . shall be prepared by the petitioner or his legal representative on a form prescribed and furnished by the state registrar and shall be presented to the clerk of the court with the petition". For completing and forwarding the certificate the clerk shall be paid \$2.00. The fee shall be taxed as costs in the case.

Sections relating to compensation and duties of local registrars, unlawful use of official records, and the transportation of a dead body are also addressed.

HCS/SENATE BILL NO. 581 - INCREASED COMPENSATION FOR CIRCUIT CLERKS, COURT REPORTERS, AND JUVENILE OFFICERS

Sections 485.090 and 485.065 RSMo 1978, Sections 211.381, 211.393, 483.083, and 485.060 (Supp. 1983) are repealed and seven new sections enacted relating to pay increases for circuit clerks, court reporters and juvenile officers.

Beginning in 1985, each circuit clerk is to annually prepare a summary of all amounts collected for the Sheriffs' Retirement Fund during the preceding calendar year and forward it to the state auditor by July 1. For the performance of this duty and in addition to other compensation provided by law, circuit clerks are to receive \$2,500 for the period beginning January 1, 1985 to December 31, 1985. Beginning January 1, 1986, the total compensation for the performance of this duty will be \$5,000 a year.

Juvenile officers' salaries are increased beginning January 1, 1985 to \$21,690. Beginning January 1, 1986, annual salaries will be \$24,690. The act also increases court reporter salaries. Beginning January 1, 1985, salaries will increase to \$26,900. Beginning January 1, 1986, annual salaries will be \$30,000.

SCS/SENATE BILL NO. 601 - PROSECUTORS AND COUNTY OFFICIALS INCREASED COMPENSATION, JUROR COMPENSATION

Repeals Sections 56.453, 56.755 and 56.760 RSMo (Supp. 1983) and enacts 22 new sections.

The act amends sections relating to the duties of the circuit attorney in the City of St. Louis and the executive director of the office of prosecution services. Also amended is the section which established the "Prosecutors Coordinators' Training Council".

New sections provide additional compensation for circuit and prosecuting attorneys through January 1, 1987, to be funded by an additional court cost of \$3.50 in certain criminal cases. Other new sections provide additional compensation for most county officials through January 1, 1986, to be funded by an additional \$4.00 court cost in most criminal and civil cases.

Training requirements for prosecuting and circuit attorneys and their assistants are established. A "county officials training commission" is created and provisions are made regarding the training requirements for certain county officials.

The act allows for additional compensation for jurors when authorized by the governing body of each county and the City of St. Louis. The additional compensation is to be paid from the funds of the county or city. Increases are subject to limitations set out in the bill.

HCS/SCS/SENATE BILL NO. 602 - CRIMINAL PROCEDURES

Repeals Sections 512.180, 540.045, 543.290, 543.300, 543.310, 543.320, 543.330, 543.335, 545.140, 545.780, 545.880 and 574.010 RSMo 1978, and Sections 545.885 and 565.060 RSMo (Supp. 1983) relating to trials and procedures and enacts nine new sections.

Appeals by trial de novo from a decision of an associate circuit judge in misdemeanor or county ordinance violation cases are

eliminated. All misdemeanor or county ordinance violation cases tried before an associate circuit judge shall be heard on the record and appeals will be filed with the appropriate state appellate court. At the discretion of the judge, but in compliance with the rules of the Supreme Court, the record may be a stenographic record or one made by the utilization of electronic, magnetic or mechanical sound or video recording devices.

The act amends law relating to charging two or more defendants in the same indictment or information, and charging one defendant with two or more offenses in the same indictment or information. It states conditions in which two or more defendants shall not be charged in the same indictment or information. Also addressed is criteria to be used when the court decides whether to order two or more defendants to be tried together or separately.

The crime of second degree assault is redefined, revising provisions enacted in Senate Bill 276 during the 1983 legislative session. Also, the section relating to the crime of peace disturbance is revised.

Section 545.780 RSMo 1978 known as the "speedy trial" statute is repealed. The bill allows for the setting of a case for trial as soon as reasonably possible after the "defendant announces that he is ready for trial and files a request for a speedy trial". The "speedy trial" provision of the bill has an emergency clause and became effective June 7, 1984.

HCS/SCS/SENATE BILLS NOS. 608 and 681 - DRIVING WHILE INTOXICATED

Repeals Sections 302.309, 302.505, 302.510, 302.515, 302.520, 302.525, 302.530, 302.535 and 302.540 RSMo (Supp. 1983) and enacts nine new sections relating to driving while intoxicated.

Provides that an arrest for a municipal or county alcohol related traffic offense may be the basis for an administrative suspension or revocation of driving privileges if the law enforcement officer, other than an elected peace officer or official, has been certified pursuant to sections 590.100 to 590.150 RSMo.

Arrests made at a check point or road block where there was not probable cause to make the arrest prior to stopping the vehicles shall not be a basis for an administrative suspension or revocation.

Provisions for obtaining a restricted driving privilege from the Department of Revenue subsequent to an administrative suspension or revocation are amended. The filing of a petition for trial de novo shall not result in a stay of the administrative suspension or revocation order. However, the Department of Revenue will issue restricted driving privileges based on the individual's past driving record.

The act also provides that the burden of proof in the administrative hearing shall be on the Department of Revenue to adduce that the person was driving a vehicle under the circumstances set out in Section 302.505 RSMo.

HCS/SENATE BILL NO. 611 - PROBATION AND PAROLE

Repeals Sections 195.221 and 557.026, RSMo 1978, and Sections 217.010, 217.035, 217.655, 217.660, 217.665, 217.670, 217.705, 217.750, 217.760, 217.775, 217.780, 217.810, 548.241, and 558.011 RSMo (Supp. 1983), relating to the department of corrections and human resources and enacts fifteen new sections.

The duties of the "Board of Probation and Parole" and of the chairman of the board are amended. The board membership is increased from three to five and additional compensation is provided for board members for preparing certain reports. The act provides for an appeal to the full board from a decision of a hearing panel regarding parole or conditional releases and "any meeting, record, or vote, of proceedings involving probation, parole, or pardon may be a closed meeting, closed record, or closed vote".

Duties, as defined by statute, regarding investigations conducted by probation and parole officers and institutional parole officers is amended. The bill provides that "the board shall not be required to provide probation services for any class of misdemeanor except those class A misdemeanors, the basis of which is contained in Chapters 565, 566 and 570 RSMo". At the request of a circuit judge, the board shall assign one or more probation and parole officers to investigate a person convicted of a felony and/or a class A misdemeanor.

The act provides that "a circuit court only upon its own motion and not that of the state or the defendant shall have the power to grant probation to a defendant any time up to 120 days after he has been delivered to the custody of the division of adult institution but not thereafter". (Amendment underlined.) Also, the clerk shall keep in a permanent file all applications for probation or parole by the court, and shall keep complete and full records of all presentence investigations requested, probations or paroles granted, revoked or terminated and all discharges from probation or parole. All court orders relating to any presentence investigations requested and probation and parole granted under certain sections of Chapter 217 shall be kept in a like manner. A copy of the court orders relating to such presentence investigations shall be sent to the board.

The bill provides that under certain conditions the "necessary and proper expenses" occurring as a result of extradition shall be paid out of the state treasury.

SENATE BILL NO. 661 - ALLOCATION OF PEREMPTORY CHALLENGES IN CIVIL CASES

Section 494.200 RSMo 1978 is repealed and a new section is enacted relating to peremptory challenges in civil cases.

Parties are allowed to object to the joining of peremptory challenges in civil cases involving multiple plaintiffs or defendants. The court is given the discretion to allocate the allowable peremptory challenges among the parties upon good cause shown or when justice so requires.

SENATE BILL NO. 694 - DEPUTY JUVENILE OFFICER COMPENSATION

Repeals Section 211.381 RSMo (Supp. 1983) relating to compensation of juvenile court personnel and enacts a new section.

Provides for increased compensation for deputy juvenile officers.

State reimbursement to the counties for the salary increases authorized under this section are handled by the Executive Branch, Office of Administration. For further information contact Office of Administration, State Capitol, Room 125, Jefferson City, Missouri 65101.

HCS/SENATE BILL NO. 704 - SHERIFFS' RETIREMENT MUNICIPAL DIVISIONS

Repeals Section 57.955 RSMo (Supp. 1983) and enacts one new section.

Provides that court costs collected for the Sheriffs' Retirement Fund do not apply to the municipal divisions as well as the juvenile divisions.

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HOUSE BILLS

HOUSE JOINT RESOLUTION NO. 58 - HEALTH INSURANCE BENEFITS

Submits to the voters of Missouri an amendment to the Constitution by adding one new article which would allow the General Assembly to authorize the state, counties, cities and other political subdivisions to provide health insurance benefits, including hospital, chiropractic, surgical, medical, optical, and dental benefits for officers and employees and their dependents.

HOUSE BILL NO. 947 - RETURN OF SERVICE

Amends Supreme Court Rule 54.22 Missouri Rules of Court, 1983. Provides that within one year of return of service any process, return or proof of service may be amended by the court unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process was issued. The return shall be considered *prima facie* evidence of the facts. However, the party served, or the sheriff, his deputies and sureties and bondsmen or any other person making the service shall be permitted to show the true facts of service and impeach the return when the return does not comport with the facts as found by the court.

"The court shall have jurisdiction within the time stated to set aside a judgment if one has been entered or to modify same in whole or in part as justice requires or take such further action it deems proper."

HOUSE BILL NO. 957 - "UNIFORM FOREIGN COUNTRY MONEY-JUDGMENTS RECOGNITION ACT"

The bill enacts the "Uniform Foreign Country Money-Judgments Recognition Act". A foreign country judgment is a judgment of a foreign country granting or denying recovery of a sum of money, other than a judgment for taxes, a fine or other penalty, or a judgment for support in matrimonial or family matters. Provisions are enacted relating to the enforcement of the judgment. The act also specifies the conditions under which a foreign country judgment is not conclusive or need not be recognized, and establishes when personal jurisdiction has been obtained. The court may stay the proceedings until an appeal has been determined or until the defendant has been given adequate time to prosecute the appeal.

HOUSE BILL NO. 1079 - ENDANGERED PLANT SPECIES

Repeals section 252.240 RSMo 1978 and enacts one new section relating to the transportation or sale of endangered plant species, with penalty provisions.

HCS/HOUSE BILLS NOS. 1142 and 894 - JURY TRIALS IN SPRINGFIELD MUNICIPAL COURT, CERTAIN TRIALS IN JACKSON COUNTY

Repeals Sections 478.469 and 479.150 RSMo 1978, and enacts two new sections relating to municipal ordinance trials.

Permits the municipal court of Springfield to hear jury cases upon the passage of an appropriate ordinance. Cases are to be heard on the record with jury selection in accordance with procedures applicable before circuit courts. Appeals will be filed with the appropriate state appellate court and the record for appeal shall be prepared in accordance with the same rules prescribed by the Supreme Court for trials on the record before associate circuit courts.

The act also sets out where cases reviewing decisions of officials or administrative bodies of Kansas City and Independence shall be heard, and where such cases from other municipalities within Jackson County may be heard.

Trials de novo of municipal judges from Kansas City may at the option of the appellant be heard in the circuit court of the county where the offense was committed or the Circuit Court of the 16th Judicial Circuit. Trials de novo from the decisions of municipal judges serving other municipalities in Jackson County may be heard at either Kansas City or Independence. The name of the court appealed to shall be set out in the order granting the appeal.

CCS/HCS/HOUSE BILL NO. 1210 - CRIMES RELATED TO FIGHTING DOGS OR INJURY OF DOGS

Section 578.050 RSMo 1978 is repealed and five new sections enacted relating to the fighting or injuring of dogs, with penalty provisions.

HOUSE BILL NO. 1226 - D.W.I. VICTIMS: CRIME VICTIMS' COMPENSATION

Repeals Section 595.010 RSMo (Supp. 1983) and enacts three new sections.

Adds the crimes of driving while intoxicated and vehicular manslaughter to the definition of crime in Section 595.010 RSMo (Supp. 1983), making certain victims of these offenses eligible to file claims against the Crime Victims' Compensation Fund.

The act provides that "In all cases in which defendants are given a sentence of imprisonment or a suspended imposition of sentence or are convicted of an alcohol related traffic offense or are placed under the supervision of the state board of probation and parole or any county parole officer after an adjudication of guilty or after imposition of sentence, whether upon a plea of guilty or after trial, the court shall enter judgment of \$26.00 against the defendant in favor of the State of Missouri".
(Amendment underlined)

By definition, alcohol related traffic offenses include offenses defined by Sections 577.005, 577.008, 577.010 and 577.012 RSMo, and any county or municipal ordinance which prohibits operation of a motor vehicle while under the influence of alcohol.

The total compensation awarded to victims of alcohol related traffic offenses shall be no more than the amount of money paid into the fund by alcohol related traffic offenders or 50 percent of the fund, whichever is less.

HCS/HOUSE BILL NO. 1244 - JUDICIAL PAY RAISES

Sections 476.405, 477.130, 478.013, 478.018, and 478.019 RSMo (Supp. 1983) are repealed and five new sections enacted relating to increased compensation for judges. Unless otherwise noted the increases become effective August 13, 1984.

Provides for salary increases for Supreme Court judges to \$72,500; for appellate court judges to \$67,500; for circuit court judges to \$62,500; for associate circuit court judges in first class counties to \$55,000. Salaries of associate circuit judges in second, third and fourth class counties are to be equalized with the salary of associate circuit judges in first class counties. Starting in August 1984 salaries in second, third and fourth class counties are set as a percentage of the salary paid an associate circuit judge in a first class county. For FY 84-85 the percentages are 95% for second class counties and 90% for third and fourth class counties. For FY 85-86 the percentages are 98% for second class counties and 95% for third and fourth class counties. Starting July 1, 1986, all associate circuit judges are to receive the salary paid to associate circuit judges in first class counties.

The January 1, 1987, expiration date for authorization of cost of living increases for judicial personnel salaries set by statute is repealed.

The bill also prohibits Supreme Court judges who resign or retire from practicing before the Supreme Court for two years.

**CCS/SS/SCS/HOUSE BILL NO. 1255 - CRIMES AGAINST CHILDREN/
SENTENCING FOR SEXUAL OFFENSES**

Repeals Sections 491.060 and 568.060 RSMo 1978, Sections 211.151, 556.061 and 589.015 RSMo (Supp. 1983), and enacts 12 new sections relating to crimes, punishment and judicial procedures for crimes against children. This bill is a comprehensive revision of the criminal code relating to crimes against children.

Effective January 1, 1986, the act prohibits the detention of a juvenile in a jail or other adult detention facility pending the disposition of a case. Jail or other adult detention facility and juvenile detention facility are defined.

Provisions regarding persons considered incompetent to testify are amended. Children under the age of ten shall be considered competent witnesses when the child is alleged to be a victim of certain offenses under Chapters 566 and 568 RSMo.

The definition section of the criminal code is revised. The definitions of dangerous felony and serious physical injury are amended and new definitions regarding serious emotional injury, sexual conduct, sexual contact, sexual performance and a commercial film and photographic print processor are enacted.

New sections are enacted in Chapter 568 relating to sexual offenses against children and the definition of sexual assault under Chapter 589 is expanded.

The act provides for specific sentencing requirements for violations of Chapter 566 and certain sections of Chapter 568.

Also addressed is the procedure for handling home schooling cases referred to the Division of Family Services. This section terminates September 28, 1985.

HOUSE BILL NO. 1275 - CHILD SUPPORT

Repeals 20 sections and enacts 23 new sections relating to child support enforcement. The bill revises administrative procedures the taxpayer and the state must follow when a taxpayer contests a state tax intercept and provides that collection through setoff may also be used to collect support on behalf of a person receiving support enforcement services pursuant to Section 454.425 RSMo.

The act requires employment information and social security numbers be provided on certain petitions, responsive pleadings, motions, decrees and orders involving dissolution of marriage, legal separation, maintenance and support of a child. Also created are provisions authorizing the court to order a bond to secure the obligation to make support payments or to secure the division of property.

The act amends the income assignment procedures and the minimum provisions of a cooperative agreement with the Division of Family Services. Under the bill a trusteeship created due to the assignment of support rights to the Division of Family Services will continue after the assignment terminates. The division's legal avenues in determining the location and financial resources of an absent parent and enforcement of laws regarding the taking or restraining of a child are amended.

Revised are the procedures the division must follow to establish an administrative order. Procedures regarding the modification of an administrative order are also changed as well as the method in which a lien on a child support judgment or maintenance may be created.

Conditions which cause an individual to submit himself to the jurisdiction of the courts for purposes of civil action for dissolution of marriage or legal separation and obligations for the support of a spouse or child, attorney's fees, suit money, or disposition of marital property are expanded.

(See Attachment A for detailed summary.)

SCS/HCS/HOUSE BILL NO. 1370 - STATE RETIREMENT REVISIONS

Forty-four sections are repealed and 45 new sections enacted relating to the retirement systems and pensions of state employees. The effective date of most of the bill is October 1, 1984.

This is a comprehensive bill revising numerous sections of the State Employees' Retirement System. Some of the major revisions include: the factor used to calculate retirement benefits is increased from 1 1/4% to 1 1/3%; the amount of unused sick leave which may count towards years of service upon retirement is increased; the number of hours of yearly service required to be a member of the retirement system is reduced from 1,500 to 1,000 hours per year (this translates to approximately .48 FTE); the loss of benefits to surviving spouses who remarry is removed; former employees who forfeited prior service can have the forfeited service restored upon completion of one year of continuous service; disability benefits are improved; provisions are made for proportional partial vesting after five years of service; and, procedures are described whereby benefits may be restored to a deceased judge's spouse who has remarried.

Direct questions to the State Employees Retirement System at (314) 751-2342. If the Retirement System is unable to assist you, call the Office of State Courts Administrator, Personnel Section at (314) 751-3585.

HCS/HOUSE BILL NO. 1513 - JOINT CUSTODY

Repeals Sections 452.402 and 452.410 RSMo 1978 and Section 452.375 RSMo (Supp. 1983) and enacts three new sections relating to the custody of children.

Amends the joint custody statutes to define joint legal custody and joint physical custody. Provisions are made for the modification of previous custody orders to allow joint custody. The act also provides that under certain conditions legal grandparents of adopted children are allowed to petition the juvenile court for visitation rights.

HOUSE BILL NO. 1521 - REPEAL OF OUTDATED AND UNNECESSARY STATUTES

This is a revision bill which repeals 137 sections of the statutes which are unnecessary because of the enactment of new laws or are outdated and no longer used. (See Attachment B for section numbers.)

HOUSE BILL NO. 1575 - DRIVERS LICENSE SUSPENSIONS AND REVOCATIONS

Repeals Sections 302.010, 302.060, 302.304 and 302.321 RSMo (Supp. 1983) and enacts four new sections relating to drivers license suspensions and revocations.

Technical corrections are made to intersectional references relating to administrative suspension or revocation of a drivers license. This bill contains an emergency clause and became effective May 14, 1984.

HOUSE BILL NO. 1611 - CHANGES CERTAIN STATUTES TO CORRECT TECHNICAL ERRORS

Repeals Sections 115.353, 149.011, 149.065, 195.221, and 302.171 RSMo 1978 and Sections 92.421 and 135.205, RSMo (Supp. 1983) and enacts seven new sections.

This bill makes technical changes to several sections of the statutes, one of which is an incorrect intersectional reference in Section 195.221 dealing with the parole of drug offenders.

HOUSE BILL NO. 1616 - ENDANGERING THE WELFARE OF A CHILD

Section 568.050 RSMo 1978 is repealed and one new section enacted relating to the crime of endangering the welfare of a child. This bill corrects intersectional references made in section 568.050 RSMo 1978 establishing the crime of endangering the welfare of a child. This bill includes an emergency clause and became effective June 18, 1984.

ATTACHMENTS

**SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL 1275
(SCS/SB 1275)
CHILD SUPPORT
DETAILED SUMMARY**

Chapter 143 RSMo relating to state tax intercepts initiated by the Division of Family Services is amended regarding the procedures a taxpayer and the state must follow to resolve a contested intercept. The review process is an administrative hearing subject to judicial review as provided under Chapter 536 RSMo. The act also provides that collection through "setoff" may be used to collect support on behalf of persons receiving support enforcement services pursuant to section 454.425 RSMo (Non-AFDC cases).

A new section, 452.312, is enacted. This section requires that every petition and every responsive pleading to a petition for dissolution of marriage or legal separation, every motion for modification of a decree respecting maintenance or support, and every petition or motion for support of a minor child shall contain the name and address of the current employer and the social security number of the petitioner or movant. If known to the petitioner or movant, the name and address of the current employer and the social security number of the respondent must also be included.

The new section further provides that every decree dissolving a marriage or modifying a decree and every order for support of a child shall contain the social security numbers of the parties if disclosed by the pleadings.

Section 452.344 is created.

*Upon entry of an order for support or division of property or at any time the court finds any of the elements which constitute grounds for attachment under 521.010 RSMo, the court may require an obligor to provide sufficient security, bond or other guarantee to secure the obligation to make support payments or to secure the division of property.

*The bond, if ordered, shall be filed with the clerk of the circuit court in the county where the order for support or division of property is filed.

*The bond may be entered into before the clerk if the court entering the order first approves the security.

*The court, upon default of a condition(s) of the bond, shall enter judgment against the obligor(s) on the bond, according to the circumstances of the case, including interest or

damages. Enforcement of the judgment, including execution, may be pursued according to the rules and practice of the court.

The income assignment provisions of Section 452.350 are amended.

*Money subject to an income assignment is expanded to include "moneys, income, or periodic earnings".

*Any person entitled to a payment of support or maintenance pursuant to a court order or judgment which does not contain a provision requiring the obligated party to execute an income assignment may apply to the court to have such an order directed to the obligated party. Upon receipt of the application the court shall enter such an order which order shall include an additional incremental amount sufficient to defray arrearages due at the time the assignment is entered. The assignment shall take effect after the notice requirements of subsection 4 of section 452.350 RSMo are satisfied.

*The obligated party may execute a voluntary income assignment at any time. The assignment will be filed with the court and shall take effect after service on the employer or other payor.

*The current provision which requires the payment to be 20 days delinquent prior to an application being filed to effect the income assignment is removed. The application may be made after the assignment is executed by the obligated person or the court.

*The circuit clerk upon application or at the direction of the court shall send to the employer or other payor by registered or certified mail, return receipt requested, notice of the assignment attached to a certified copy of the assignment document.

*The notice to the employer regarding effecting the income assignment shall include a statement of exemptions "which may apply to limit the portion of the obligated party's disposable earnings which are subject to the assignment under federal or state law".

*A notice of the assignment shall be mailed by regular mail to the last-known address of the obligated party. The notice to the obligated party and to the employer or other payor are to be mailed at the same time.

*The income assignment becomes effective two weeks after service upon the employer or other payor. During that two week period the obligated party may request a hearing on whether or not the assignment should take effect. If a hearing is requested the assignment shall not be held in abeyance pending the outcome of the hearing.

*Upon termination of the obligor's employment with an employer upon whom an income assignment has been served, the employer shall notify the court in writing.

*The employer may deduct up to \$3.00 from the obligor's money to offset the cost of handling the assignment. The \$3.00 is in addition to the amount deducted to meet the support obligation.

*An income assignment entered under this section may be amended or withdrawn by the court.

*The income assignment may run concurrently with any previously served legal process, up to applicable wage withholding limitations.

Section 454.405 relating to the cooperative agreement is revised.

*Reimbursement by the state from moneys received from the federal government will be for reasonable and necessary costs as determined by the Director of the Division of Family Services.

*The cooperative agreement shall provide that the city or county maintain financial and performance records required by federal regulation. The records shall be available to representatives of the division, the state auditor, or the U. S. Dept. of Health and Human Services.

*The division is given the authority to promulgate rules pursuant to Chapter 536 RSMo in order to establish criteria for record keeping and performance relating to the effective administration of the child support enforcement program. The rules shall apply to the city or county office or officer with whom a cooperative agreement is entered.

A new subsection of Section 454.415 is enacted.

*Trusteeships which arise due to an assignment of support rights to the division will continue after the division terminates the assignment.

*The clerk shall forward to the division all payments for support which had accrued prior to the termination of the assignment. All payments for support accruing after the termination shall be forwarded to the obligee.

*Unless specifically designated by the obligor, the clerk shall determine whether the payment is for support which accrued prior to or after the termination of the assignment. The following criteria shall be used:

- a) apply payments first to support which accrued after the termination; then,
- b) apply payments to support which accrued prior to termination.

*Unless the division directs otherwise, all payments collected by the division through debt setoff or legal process shall be forwarded to the division.

*After termination of the assignment, the trusteeship may be dissolved only upon motion of a party, and after notice and hearing on behalf of all parties to the proceedings.

*No motion may be filed, nor maintained, for the purpose of terminating or abating any trusteeship in favor of the division.

Section 454.440 is amended. The amendments address the division's authority to locate and determine the financial resources of absent parents. Also addressed is the division's authority to obtain information when the information is to be used to locate the parent or child for the purpose of enforcing any state or federal law with respect to the unlawful taking or restraining of a child, or of making or enforcing a child custody determination.

Other provisions of Section 454.440 are amended as follows:

*A civil penalty may be imposed if a business or financial entity fails to provide certain information within a prescribed time period. At the request of the division, the attorney general shall bring an action in a circuit court of competent jurisdiction to recover the civil penalty. The court shall have the authority to determine the amount of the civil penalty to be assessed.

*The absent parent, upon request of the division, shall complete a statement under oath which provides specific information. If requested by the division this statement shall be completed annually. Failure on the part of the absent parent to comply with such a request shall be a Class A misdemeanor.

*A business or financial entity, or any officer, agent or employee shall be immune from liability, civil or criminal, that might result from the release of information to the division.

*A business or financial entity is prohibited from disclosing any information provided by the division. Violation of this provision is a Class A misdemeanor.

The procedures as described in Sections 454.460 to 454.505 whereby an administrative order for child support or paternity is established or modified are amended.

*Where no court order covers a parent's support obligation to a dependent during a period in which the division provided public assistance to or for that dependent, the state debt may be set or reset by the director in an amount not to exceed the amount of public assistance provided. (Section 454.465)

- *The division shall have the right to make a motion to a court or administrative tribunal for modification of any order to which the division has become subrogated to the same extent as a party to that action. (Section 454.465)
- *The division is given authority to promulgate administrative rules as may be necessary to carry out the provisions of the administrative process. This includes, but is not limited to, rules for narrowing issues and simplifying the methods of proof at the administrative hearings, procedures for notice, manner of service and available remedies. (Section 454.465)
- *The director may issue a notice and finding of financial responsibility to a parent who is responsible for the support of a child on whose behalf the custodian of the child is receiving support enforcement services from the division (Non-AFDC). (Section 454.470)
- *The notice and finding of financial responsibility shall include, when appropriate, in addition to what is currently required, the amount of arrearages accrued under the order for support and a minimum monthly payment to be paid. The amount of the cost of collection, including attorney fees, may also be assessed against the parent. (Section 454.470)
- *If after a notice and finding of financial responsibility has been served the obligated person requests a hearing, the hearing shall be conducted before an administrative hearing officer designated by the Department of Social Services. The parent adversely affected by the decision may obtain judicial review under Sections 536.100 to 536.140 RSMO, by filing a petition for review in the circuit court of proper venue. The petition must be filed within 30 days of receipt of notice of the decision. (Section 454.475)
- *After the entry of an administrative order, the obligated parent, the division, or the person or agency having custody of the child may file a motion for modification with the director. (Section 454.500)
- *Hearings on motions to modify an administrative order may be conducted before a hearing officer designated by the Department of Social Services. The decision is subject to judicial review upon petition by the party adversely affected by the decision. (Section 454.500)
- *If the motion involves a duty of support for a child who is no longer in the custody of a person receiving public assistance or receiving support enforcement services, the Director of the Division of Family Services may certify the matter for hearing to the circuit court in which the order was filed. The hearing in the circuit court shall be in lieu of the administrative hearing. (Section 454.500)
- *Orders of support entered by a court shall supersede an administrative order. The director's order shall be pleaded and received by the court as evidence of the extent of the

parent's duty of support. However, the court's order shall not affect any support arrearage which accrued under the administrative order. (Section 454.501)

*If a parent voluntarily requests that money due or to become due be withheld and applied to the support obligation, the employer or other payor shall comply with that request as if so ordered by the director. (Section 454.505)

*If it appears that an employee was discharged or otherwise disciplined as a result of an administrative order to withhold, the division may bring an action in circuit court. The court may enter an order against the employer requiring reinstatement of the employee, payment of back wages, costs, attorney's fees and payment for the amount of child support which should have been withheld during the period the employee was wrongfully discharged. (Section 454.505)

The provisions of Section 454.515 by which a lien on a child support order or maintenance may be created are changed.

*Child support or maintenance payable in periodic installments shall not be a lien on real estate until the person entitled to receive payment requests a lien and the lien request is recorded in the circuit clerk's office in the county in which the real estate is situated.

*Liens shall commence on the day each installment becomes due and is unpaid and shall continue for a period of three years. The lien may be revived as provided in Sections 511.370 to 511.430 RSMo.

*If the circuit clerk where the decree is entered is not trustee to receive child support or maintenance payments, the request to effect a lien shall be accompanied by a sworn affidavit attesting to the number of unpaid payments, the dates when such payments became due, the total amount due and the last known mailing address of the person obligated to pay.

*The request for lien shall be accompanied by a motion to name the circuit clerk as trustee. If no affidavit is filed or it fails to state all unpaid payments, a lien shall not attach for payments not attested.

*If the clerk is not already trustee, upon the filing of a lien request, arrearage affidavit and the motion to name the circuit clerk trustee, the court shall enter an order naming the clerk as trustee.

*A certified copy of the trusteeship order together with a copy of the arrearage affidavit shall be mailed by the clerk, by regular mail, to the last known address of the obligated person as disclosed by the arrearage affidavit.

*If the obligated person objects to or disagrees with the arrearage amount contained in the affidavit a hearing may be requested within 30 days of the date the order and affidavit

were mailed. If no hearing is requested the affidavit shall be conclusive for all purposes.

*An order entered after hearing shall have the same force and effect as a final judgment and shall be appealable in like manner.

*The clerk's record shall be presumptive of payment or nonpayment of installments. The liens created attach from the date of each unpaid installment or the date of the lien request, whichever is later.

*Payments which exceed the amount of the payment due for the period in which the payment is made shall be applied to past due and unpaid installments in the order in which the installments came due.

Section 506.500 is amended.

*Any person, whether or not a citizen or resident of this state, who has lived in a lawful marriage in this state submits himself to the jurisdiction of the courts as to certain civil actions relating to dissolution, legal separation, maintenance of a spouse, child support, attorney's fees, suit money, or disposition of marital property, if the other party to the marriage continues to live in this state or if a third party has provided support to the spouse or children of the marriage and is a resident of this state.

*Any person who engages in an act of sexual intercourse with the mother of the child on or near the probable time of conception submits himself to the jurisdiction of the court.

HOUSE BILL NO. 117

REPEAL OF OUTDATED AND UNNECESSARY STATUTES

LIST OF SECTIONS REPEALED

Section 1. Sections 33.570, 33.580, 111.041, 111.301, 111.441, 111.481, 112.061, 112.067, 113.070, 113.180, 113.190, 113.330, 113.360, 113.860, 161.012, 161.212, 161.222, 173.010, 173.060, 173.070, 173.080, 173.090, 181.011, 181.051, 343.160, 418.010, 418.020, 418.030, 418.040, 418.050, 418.060, 418.070, 418.080, 418.090, 420.010, 420.020, 420.030, 420.040, 420.050, 420.060, 420.070, 420.080, 420.090, 420.100, 420.110, 420.120, 420.130, 420.140, 420.150, 420.160, 420.170, 420.180, 420.190, 420.200, 420.210, 420.220, 420.230, 420.260, 420.270, 420.280, 420.290, 422.010, 422.020, 422.030, 422.040, 422.050, 422.060, 422.070, 422.080, 422.090, 422.100, 422.110, 422.120, 422.130, 422.140, 422.150, 422.210, 422.220, 422.230, 423.010, 423.020, 423.030, 423.040, 423.050, 423.060, 423.070, 423.080, 435.010, 435.020, 435.030, 435.040, 435.050, 435.060, 435.070, 435.080, 435.090, 435.100, 435.110, 435.120, 435.130, 435.140, 435.150, 435.160, 435.170, 435.180, 435.190, 435.200, 435.210, 435.220, 435.230, 435.240, 435.250, 435.260, 435.270, 435.280, 538.010, 538.015, 538.020, 538.025, 538.030, 538.035, 538.040, 538.045, 538.050, 538.055, 538.060, 538.065, 538.070, 538.075 and 538.080, RSMo 1978, section 56.310 as enacted by house bill no. 1634 in 1978, sections 79.040 and 94.510 as enacted by house bill no. 971 in 1978, sections 94.540 and 94.620 as enacted by house bill no. 726 in 1979, and sections 162.013 and 165.091 as enacted by house bill no. 130 in 1977, are repealed.